

REMARKS

In response to the Office Action of September 23, 2004, claims 26 and 28 have been amended, and new claims 40 and 41 have been added. It is submitted that this places all of the claims of the application in form for allowance.

Allowance of claims 31 – 39 is noted.

Apparent allowability of claims 1 – 25, except for the double patenting rejection of claims 1-30, is noted. It is submitted that the double patenting rejection should have been made as a provisional rejection in accordance with MPEP § 804.II.A., since the claims over which the present rejection was made are those of an application that was pending at the time the rejection was made. The rejection was based on claims 1 – 30 of prior U.S. Patent Application No. 10/672,731, which is being expressly abandoned concurrently with this amendment, and so there is no longer any basis in 35 USC §101 for rejection of claims 1 – 30.

The present application discloses a bandage and a method for its manufacture in which a flexible dome is formed in a layer of film which is fastened to another layer of film so that the dome can slip along a surface of the other layer of film.

As shown in Figs. 1, 3, 6, 13 – 16 and 18 of this application, the flexible dome formed in a layer of film, because of its flexibility, is free to collapse immediately and traps little or no gas during its attachment to a dome base layer and a skin contact layer. As a result, its top portion rests against and is free to move along the surface of the adjacent skin contact layer or dome base layer, in a nearly flat, two dimensional configuration. In one embodiment, as mentioned on page 11, at lines 15 – 33, the dome may be perforated, so that it can't retain a bubble of gas and thus have a stable form, and the dome is then free to collapse to the configuration shown in Figs. 1, 6, 13 and 15, and in broken line in Figs. 3, 14, 16 and 18, in which the top portion of the dome is free to move, within the distance available in the height of the dome established by its flexible side walls. In any case, the dome is not left as a prominent gas-filled bubble in the finished bandage, and by virtue of its flexible side walls has a top portion that is free to move in any direction for a limited distance to accommodate relative movement, between an area of skin to which the bandage is attached and an adjacent, contacting surface. By virtue of the relatively low coefficient of friction between the top portion of the dome and the underlying dome base

layer or a skin contact layer of the bandage, the top portion allows such relative movement with greatly reduced stress on skin protected by the bandage.

Claims 26 – 29 were rejected under 35 USC §102(e) as anticipated by Augustine et al. U.S. Patent No. 6,570,050. Augustine provides a bandage which has a stationary annular side wall structure which is adhesively attached to a person's skin, surrounding an opening that communicates with the interior of the cover 315 of the device shown in Figs. 3 and 3A of the Augustine et al. patent. The portion which Augustine calls a side wall 316, however, does not correspond in function to the skin contact layer of the bandage disclosed in the present application.

Claims 26 – 30, and new claims 40 – 43, added by this amendment, are directed to a method of making a bandage in which two adjacent layers can slide along one another to prevent or alleviate friction between a person's skin and an adjacent object. In order to better define the present invention, claim 26 has been amended to require as a first step that a flexible film be shaped to form a flexible dome including a side wall, leaving the dome surrounded by a generally planar skirt of flexible film, and as a second step attaching the skirt to a skin contact layer extending at least beneath all of the dome, so that the top portion is moveable along the skin contact layer. Since there is no skin contact layer extending beneath all of the dome in the Augustine et al. device, and since the dome-like cover 315 of the Augustine et al. device is "sturdy, yet somewhat flexible," and "sturdy enough to form and maintain the dome that rises over the opening 323," (as described at column 8, lines 7-8, 10-11 of the patent). Since the cover 315 is self supporting it is not freely flexible and thus is not moveable along the sidewall 316, which the Examiner suggests is the same as the flexible film recited in original claim 26, Augustine et al. thus fail to suggest the method of making a bandage defined by claim 26, as amended which should be allowed. Since claims 27 – 30 depend from claim 26 they should also be allowed for the same reasons set forth with respect to claim 26.

Additionally, claim 28 requires attachment of a generally planar dome base layer to extend at least beneath all of the dome, which is not suggested by Augustine et al., and claim 28 should be amended for that reason as well.

Claim 40 defines the method of the present invention with some additional specificity by comparison with claim 26, by reciting that the skirt of the dome is attached adhesively in a manner "leaving said top portion moveable along said skin contact layer to an extent limited by said side wall." It is respectfully submitted that claim 40 patentably defines the method of the present invention over the Augustine et al. disclosure and should therefore be allowed.

Claim 41 depends from claim 40 and requires that the step of attaching the skirt of the dome to the skin contact layer includes placing the dome over the dome base layer and "leaving said side wall free to flex and thereby leaving said top portion free to move along said dome base layer." Augustine et al. fail to suggest such attachment of a dome to a base layer or to a skin contact layer as defined in new claim 41. Claim 41 should also be allowed for this reason.

Claims 42 and 43 depend from claims 40 and 26, respectively, and add a step of perforating the flexible dome that is not suggested by the prior art of record.

New claim 44, dependent from claim 1, is added to address particularly the collapsed configuration of the dome, as shown in the drawings and mentioned on page 9, lines 9-20.

This Amendment is accompanied by a Petition for Extension of Time and the appropriate fee therefor.

A Supplemental Information Disclosure Statement is also provided herewith, disclosing references first brought to Applicant's attention less than three months prior to the date of this Amendment.

Accordingly, the Examiner is requested to re-examine the application in view of the foregoing amendments and remarks, to allow claims 1 – 44, all of the claims of the application, and to pass the application promptly on to issue.

Respectfully submitted,



Donald B. Haslett
Attorney for Applicant's Assignee
Telephone: (503) 227-5631
Facsimile: (503) 228-4373